

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Revision of the Commission's Rules to Ensure	)	
Compatibility with Enhanced 911 Emergency	)	CC Docket No. 94-102
Calling Systems	)	
	)	
Request for Enhanced 911 Phase II Waiver by	)	
Northeast Communications of Wisconsin, Inc. dba	)	
Cellcom	)	

**ORDER**

**Adopted: December 6, 2005**

**Released: December 8, 2005**

By the Commission:

**I. INTRODUCTION**

1. In this *Order*, we address a request for relief from the Commission's wireless Enhanced 911 (E911) Phase II requirements filed by Northeast Communications of Wisconsin, Inc. (Cellcom), a Tier III wireless service provider<sup>1</sup> in areas of Wisconsin and Michigan.<sup>2</sup> Specifically, Cellcom seeks an extension of time to comply with the requirement in Section 20.18(g)(1)(v) of the Commission's Rules that carriers employing a handset-based E911 Phase II location technology achieve ninety-five percent penetration among their subscribers of location-capable handsets by December 31, 2005.<sup>3</sup>

2. Timely compliance with the Commission's wireless E911 rules ensures that the important public safety needs of wireless callers requiring emergency assistance are met as quickly as possible. In analyzing requests for extensions of the Phase II deadlines, the Commission has afforded relief only when

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<sup>1</sup> Tier III carriers are non-nationwide Commercial Mobile Radio Service (CMRS) providers with no more than 500,000 subscribers as of the end of 2001. *See* Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Phase II Compliance Deadlines for Non-Nationwide Carriers, CC Docket No. 94-102, *Order to Stay*, 17 FCC Rcd 14841, 14848 ¶ 22 (2002) (*Non-Nationwide Carriers Order*).

<sup>2</sup> *See* Northeast Communications of Wisconsin, Inc. dba Cellcom Request for Limited Waiver and Extension of the Commission's Phase II E911 Rules, CC Docket No. 94-102, filed Aug. 31, 2005 at 2, 4-6 (Cellcom Request). Cellcom filed its request on behalf of itself and its affiliates, which include Brown County MSA Cellular Limited Partnership, Northeast Communications of Wisconsin, Inc., Nsighttel Wireless, LLC, Wausau Cellular Telephone Company Limited Partnership, Wisconsin RSA #4 Limited Partnership, and Wisconsin RSA #10 Limited Partnership. *See id.* at 1 n.1. In support of its Request, Cellcom submitted certain information under a request for confidential treatment pursuant to § 0.459 of the Commission's Rules. Because this *Order* discusses only that information already made public by Cellcom, we need not rule on Cellcom's request at this time. Until we so rule, we will honor Cellcom's request for confidential treatment. *See* 47 C.F.R. § 0.459(d)(1).

<sup>3</sup> *See* 47 C.F.R. § 20.18(g)(1)(v).

the requesting carrier has met the Commission's standard for waiver of the Commission's rules.<sup>4</sup> Where carriers have met the standard, the relief granted has required compliance with the Commission's rules and policies within the shortest practicable time.<sup>5</sup> We are also mindful of Congress' directive in the ENHANCE 911 Act to grant waivers for Tier III carriers of the ninety-five percent penetration benchmark if "strict enforcement . . . would result in consumers having decreased access to emergency services."<sup>6</sup>

3. Pursuant to the ENHANCE 911 Act, and based on the record before us, we find that some relief from the ninety-five percent handset penetration requirement, until December 8, 2006, is warranted subject to certain conditions described below. These conditions are particularly important because Cellcom has failed to demonstrate a "clear path to full compliance" with the Commission's December 31, 2005 handset penetration requirement consistent with the Commission's E911 waiver standards.<sup>7</sup>

## II. BACKGROUND

### A. Phase II Requirements

4. The Commission's E911 Phase II rules require wireless licensees to provide Public Safety Answering Points (PSAPs) with Automatic Location Identification (ALI) information for 911 calls.<sup>8</sup> Licensees can provide ALI information by deploying location information technology in their networks (a network-based solution),<sup>9</sup> or Global Positioning System (GPS) or other location technology in subscribers' handsets (a handset-based solution).<sup>10</sup> The Commission's rules also establish phased-in schedules for carriers to deploy any necessary network components and begin providing Phase II service.<sup>11</sup> However, before a wireless licensee's obligation to provide E911 service is triggered, a PSAP

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<sup>4</sup> See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; E911 Phase II Compliance Deadlines for Tier III Carriers, CC Docket No. 94-102, *Order*, 20 FCC Rcd 7709, 7709-7710 ¶ 1 (2005) (*Tier III Carriers Order*).

<sup>5</sup> See *id.*

<sup>6</sup> National Telecommunications and Information Administration Organization Act – Amendment, Pub. L. No. 108-494, 118 Stat. 3986 (2004). See also *infra* ¶ 8.

<sup>7</sup> Because we find that some relief from the ninety-five percent handset penetration requirement is warranted pursuant to the ENHANCE 911 Act, we need not determine whether Cellcom met the Commission's waiver standard. Although demonstration of a "clear path to full compliance" is not required to warrant some relief under the ENHANCE 911 Act, this element of our waiver standard provides useful guidance in determining the extent to which such relief should be granted.

<sup>8</sup> See 47 C.F.R. § 20.18(e).

<sup>9</sup> Network-based location solutions employ equipment and/or software added to wireless carrier networks to calculate and report the location of handsets dialing 911. These solutions do not require changes or special hardware or software in wireless handsets. See 47 C.F.R. § 20.3, *Network-based Location Technology*.

<sup>10</sup> Handset-based location solutions employ special location-determining hardware and/or software in wireless handsets, often in addition to network upgrades, to identify and report the location of handsets calling 911. See 47 C.F.R. § 20.3, *Location-Capable Handsets*.

<sup>11</sup> See 47 C.F.R. §§ 20.18(f), (g)(2).

must make a valid request for E911 service, *i.e.*, the PSAP must be capable of receiving and utilizing the data elements associated with the service and must have a mechanism in place for recovering its costs.<sup>12</sup>

5. In addition to deploying the network facilities necessary to deliver location information, wireless licensees that elect to employ a handset-based solution must meet the handset deployment benchmarks set forth in Section 20.18(g)(1) of the Commission's Rules, independent of any PSAP request for Phase II service.<sup>13</sup> After ensuring that 100 percent of all new digital handsets activated are location-capable, licensees must achieve ninety-five percent penetration among their subscribers of location-capable handsets no later than December 31, 2005.<sup>14</sup>

## **B. Waiver Standards**

6. The Commission has recognized that smaller carriers may face "extraordinary circumstances" in meeting one or more of the deadlines for Phase II deployment.<sup>15</sup> The Commission previously has stated its expectations for requests for waiver of the E911 Phase II requirements. Waiver requests must be "specific, focused and limited in scope, and with a clear path to full compliance. . . . and should document their efforts aimed at compliance in support of any waiver requests."<sup>16</sup> The Commission also noted, in considering earlier requests for relief by Tier III carriers, that it

expects all carriers seeking relief to work with the state and local E911 coordinators and with all affected PSAPs in their service area, so that community expectations are consistent with a carrier's projected compliance deadlines. To the extent that a carrier can provide supporting evidence from the PSAPs or state or local E911 coordinators with whom the carrier is assiduously working to provide E911 services, this would provide evidence of its good faith in requesting relief.<sup>17</sup>

7. In applying the above criteria, the Commission has in the past recognized that special circumstances particular to smaller carriers may warrant limited relief from E911 requirements. For

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<sup>12</sup> See 47 C.F.R. § 20.18(j)(1).

<sup>13</sup> See 47 C.F.R. § 20.18(g)(1).

<sup>14</sup> See 47 C.F.R. § 20.18(g)(1)(v).

<sup>15</sup> See *Tier III Carriers Order*, 20 FCC Rcd at 7714 ¶ 9; *Non-Nationwide Carriers Order*, 17 FCC Rcd at 14846 ¶ 20 ("wireless carriers with relatively small customer bases are at a disadvantage as compared with the large nationwide carriers in acquiring location technologies, network components, and handsets needed to comply with our regulations"); Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; E911 Compliance Deadlines for Non-Nationwide Tier III CMRS Carriers, CC Docket No. 94-102, *Order to Stay*, 18 FCC Rcd 20987, 20994 ¶ 17 (2003) (*Order to Stay*) ("under certain conditions, small carriers may face extraordinary circumstances in meeting one or more of the deadlines for Phase II deployment and [] relief may therefore be warranted").

<sup>16</sup> Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Fourth Memorandum Opinion and Order*, 15 FCC Rcd 17442, 17458 ¶ 44 (2000) (*Fourth MO&O*). See also 47 C.F.R. §§ 1.3, 1.925(b)(3); *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), *appeal after remand*, 459 F.2d 1203 (D.C. Cir. 1972), *cert. denied*, 409 U.S. 1027 (1972); *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164 (D.C. Cir. 1990).

<sup>17</sup> *Order to Stay*, 18 FCC Rcd at 20997 ¶ 28.

example, the Commission has noted that some Tier III carriers face unique hurdles such as significant financial constraints, small and/or widely dispersed customer bases, and large service areas that are isolated, rural or characterized by difficult terrain (such as dense forest or mountains), along with a corresponding reduced customer willingness to forgo existing handsets that may provide expanded range, but are not location-capable.<sup>18</sup> In evaluating requests for waiver from Tier III carriers, the Commission, therefore, has considered challenges unique to smaller carriers facing these circumstances.

8. Finally, distinct from the Commission's rules and established precedent regarding waivers of the E911 requirements, in December 2004 Congress enacted the Ensuring Needed Help Arrives Near Callers Employing 911 Act of 2004 (ENHANCE 911 Act).<sup>19</sup> The ENHANCE 911 Act, *inter alia*, directs the Commission to act on any petition filed by a qualified Tier III carrier requesting a waiver of Section 20.18(g)(1)(v) within 100 days of receipt, and grant such request for waiver if "strict enforcement of the requirements of that section would result in consumers having decreased access to emergency services."<sup>20</sup>

### C. Request for Waiver

9. Cellcom is a Tier III carrier operating an analog and CDMA network, and has deployed a handset-based E911 Phase II location solution.<sup>21</sup> Cellcom states that it has met all of the Commission's location-capable handset sale and activation benchmarks in advance of its deadlines,<sup>22</sup> and reports both current and anticipated progress in increasing its location-capable handset penetration rate.<sup>23</sup> Cellcom requests an extension until March 31, 2008 of the December 31, 2005 deadline for achieving ninety-five percent penetration of location-capable handsets.<sup>24</sup>

10. In support of its request, Cellcom notes that it expects that a number of PSAPs in its service area will not be capable of receiving Phase II information by the December 31, 2005 deadline.<sup>25</sup> Cellcom also explains that due to a number of factors, it faces difficulties in converting its subscribers to location-capable digital handsets.<sup>26</sup> Cellcom adds that there are particular obstacles with respect to its customers that use analog-only phones in areas where Cellcom has not yet expanded digital service.<sup>27</sup> For these reasons, Cellcom believes that it has presented circumstances warranting relief under the Commission's waiver standards, as well as under the ENHANCE 911 Act.

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<sup>18</sup> See *Tier III Carriers Order*, 20 FCC Rcd at 7718, 7719, 7726, 7732, 7736-7737 ¶¶ 17, 19, 37, 57, 70.

<sup>19</sup> National Telecommunications and Information Administration Organization Act – Amendment, Pub. L. No. 108-494, 118 Stat. 3986 (2004).

<sup>20</sup> *Id.* at § 107(a), 118 Stat. 3986, 3991. The ENHANCE 911 Act defines a "qualified Tier III carrier" as "a provider of commercial mobile service (as defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d))) that had 500,000 or fewer subscribers as of December 31, 2001." *Id.* at § 107(b), 118 Stat. 3986, 3991.

<sup>21</sup> See Cellcom Request at 2, 6.

<sup>22</sup> See *id.* at 2-3, Exhibit 3.

<sup>23</sup> See *id.* at 3, 6-7.

<sup>24</sup> See *id.* at 2.

<sup>25</sup> See *id.* at 4-6.

<sup>26</sup> See *id.* at 7-8.

<sup>27</sup> See *id.*

### III. DISCUSSION

11. We believe that it is critical for all handset-based carriers to meet the final implementation deadline of December 31, 2005 for ninety-five percent location-capable handset penetration, if at all possible, in order to allow all stakeholders (including carriers, technology vendors, public safety entities, and consumers) to have greater certainty about when Phase II will be implemented and ensure that Phase II is fully implemented as quickly as possible.<sup>28</sup> Absent Phase II location data, emergency call takers and responders must expend critical time and resources questioning wireless 911 callers to determine their location, and/or searching for those callers when the callers cannot provide this information. At the same time, however, the Commission has recognized that requests for waiver of E911 requirements may be justified, but only if appropriately limited, properly supported, and consistent with established waiver standards.<sup>29</sup> Accordingly, when addressing requests for waiver of the ninety-five percent handset penetration deadline, we remain mindful that delay in achieving the required handset penetration level could impair the delivery of safety-of-life services to the public. We must also remain mindful, however, of Congress' directive in the ENHANCE 911 Act to grant Tier III waivers if strict enforcement would result in consumers having decreased access to emergency services.<sup>30</sup>

12. Consistent with that directive, we believe that Cellcom has shown under the ENHANCE 911 Act that a limited grant of the requested waiver of the December 31, 2005 benchmark is warranted, subject to certain conditions and reporting requirements to permit effective monitoring of Cellcom's progress towards full compliance with the Commission's location-capable handset penetration requirement.

13. *Handset Deployment Progress.* Cellcom notes that has it met all of the Commission's location-capable handset sale and activation benchmarks in advance of the deadlines established for Tier III carriers, and has instituted a policy of requiring that only location-capable handsets be sold by itself or its agents.<sup>31</sup> Cellcom also reports that it has achieved a "sharp increase" in the percentage of its subscribers having location-capable handsets.<sup>32</sup> Between January 1, 2004 and April 4, 2005, on average across all its markets, subscriber penetration of location-capable phones increased from fifteen to over sixty-five percent.<sup>33</sup> Cellcom projects that it will achieve seventy-two percent penetration of location-capable handsets by December 31, 2005 and eighty-five percent penetration by December 31, 2006.<sup>34</sup>

14. *Factors Affecting Customer Acceptance.* Cellcom advances a number of reasons why it faces difficulty in converting its existing subscribers to use of location-capable handsets. Cellcom points to an "unusually low monthly customer churn rate," contributing to a low customer handset upgrade

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<sup>28</sup> See *Non-Nationwide Carriers Order*, 17 FCC Rcd at 14853 ¶ 38.

<sup>29</sup> See *Tier III Carriers Order*, 20 FCC Rcd at 7709-7710 ¶ 1; *Non-Nationwide Carriers Order*, 17 FCC Rcd at 14842-14843 ¶ 6.

<sup>30</sup> See *supra* ¶ 8.

<sup>31</sup> See Cellcom Request at 2-3, Exhibit 10, Exhibit 11.

<sup>32</sup> See *id.* at 3.

<sup>33</sup> See *id.*

<sup>34</sup> See *id.* at 6-7. We note, however, that Cellcom reports that it already achieved a seventy-five percent penetration rate at the time of its filing. See *id.* at 3 n.4.

rate.<sup>35</sup> Cellcom also cites to the fact that it has a number of government and school district customers that have not budgeted for location-capable handsets, further contributing to a low handset upgrade rate.<sup>36</sup> Cellcom adds that it has a predominantly rural service area, including wooded terrain and lakes, where a “considerable number” of customers use high-power, three-watt analog handsets.<sup>37</sup> Cellcom asserts that, in these areas, analog handsets provide superior range that “simply cannot be duplicated by E911 compliant digital handsets.”<sup>38</sup> Cellcom notes that the sunset of the cellular analog service requirement (to occur on February 18, 2008) “will likely provide an incentive for customers to upgrade their handsets.”<sup>39</sup> However, Cellcom believes that it will continue to have difficulties converting its analog subscribers to digital handsets until it is “able to build out its digital network to the extent that it would provide the same coverage as its analog service in rural parts of its service area.”<sup>40</sup> Further, Cellcom notes that even though it “has, and will continue to, offer incentive programs to entice handset upgrades,” it will encounter such difficulties even if it offers a “substantial rebate” on location-capable handsets to entice subscribers with analog handsets to upgrade.<sup>41</sup>

15. *Coordination with PSAPs.* Cellcom also includes a schedule of the dates provided by the PSAPs in Wisconsin indicating when each anticipates becoming Phase I and Phase II ready.<sup>42</sup> Cellcom reports that it has implemented Phase II service in one of the seventeen counties it serves in Wisconsin and that “if and when [] PSAPs are Phase II Ready, Cellcom will be capable of delivering Phase II information.”<sup>43</sup> Cellcom adds that it “has been in communication with several PSAPs regarding the timeframe for Phase II compliance and anticipates working more closely with them as each PSAP moves toward being Phase II ready.”<sup>44</sup> Cellcom has implemented Phase II in each of the four counties it serves in Michigan.<sup>45</sup> Further, Cellcom provides letters from four PSAPs expressing support for its request.<sup>46</sup>

16. *ENHANCE 911 Act.* We find that Cellcom warrants some relief under the ENHANCE 911 Act. As discussed above, some customers residing in particularly rural areas use higher-power analog phones where Cellcom thus far has been unable to duplicate digital coverage. Cellcom notes that its customers using analog handsets in these areas presently are able to dial 911 should an emergency

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<sup>35</sup> See *id.* at 8.

<sup>36</sup> See *id.* at 6.

<sup>37</sup> See *id.* at 7.

<sup>38</sup> See *id.*

<sup>39</sup> See *id.* at 6.

<sup>40</sup> *Id.*

<sup>41</sup> See *id.* at 6, 8.

<sup>42</sup> See *id.* at Exhibit 6. Cellcom states that this information may be obtained from each PSAP’s Wireless 911 Grant Application filed with the Public Service Commission of Wisconsin, which can be searched at [http://psc.wi.gov/apps/erf\\_search/default.aspx](http://psc.wi.gov/apps/erf_search/default.aspx) by entering “05 TR 104” in the Utility/Docket section. See *id.* at n. 1.

<sup>43</sup> See *id.* at 4-5.

<sup>44</sup> *Id.* at 5.

<sup>45</sup> See *id.*

<sup>46</sup> See *id.* at 5 and Exhibit 8. See also Supplement to Request for a Limited Waiver and Extension of the Commission’s Phase II E911 Rules, CC Docket No. 94-102, filed Nov. 4, 2005 (providing two additional letters of support from PSAPs).

arise.<sup>47</sup> If forced to transition these analog subscribers to digital handsets, however, Cellcom states it would be incapable of duplicating the same analog coverage with its digital network by December 31, 2005.<sup>48</sup> As a result, customers who may have been able to reach 911 in certain areas, because of the expanded coverage afforded them by using high-power analog phones, may not be able to make the same calls with a digital, location-capable handset, at least until digital coverage is extended. Cellcom adds that it has “no business incentive to first concentrate on providing digital coverage in the rural, remote areas” and rather its “focus is on upgrading its digital network in other parts of its licensed area” to provide for improved wireless service.<sup>49</sup> Accordingly, citing to the *ENHANCE 911 Act* standard, Cellcom concludes that, if forced to comply with the December 31, 2005 deadline, “the end result will be a system whereby consumers have ‘decreased access to emergency services,’ especially in rural and remote areas.”<sup>50</sup>

17. We find that customers using higher-power analog phones likely would find it more difficult and, at times, impossible, to contact a PSAP in some particularly rural parts of Cellcom’s service area if they upgraded to lower-power, yet location-capable, digital phones. In certain remote portions of Cellcom’s service area, analog service appears for the time being to be the only option for obtaining wireless telephone access in case of emergency. As digital service eventually is extended into presently analog-only areas, replacement of analog handsets with location-capable digital phones will benefit customers and PSAPs by allowing 911 calls to be delivered to the PSAP with Phase II location information. Until such time, however, it appears likely that strict enforcement of the December 31, 2005 deadline under these circumstances would impair the ability of certain 911 callers to reach emergency assistance, and thus “would result in consumers having decreased access to emergency services,” at least in some cases. For these reasons, we find that some relief under the *ENHANCE 911 Act* is warranted.

18. We note, however, that Cellcom failed to provide sufficient information to warrant the full relief requested because Cellcom has not adequately shown a “clear path to full compliance” with the ninety-five percent handset penetration requirement, nor does Cellcom provide sufficient justification for why it would warrant such extensive waiver relief. Cellcom did not specify the number of subscribers that would be unable to make any wireless emergency calls if required to upgrade to location-capable handsets. In this regard, Cellcom states it will be unable, by December 31, 2005, to duplicate digital coverage in areas where service is available only with higher-power analog phones, and intends to focus on upgrading its digital network rather than expanding digital coverage in rural, remote areas. At the same time, Cellcom mentions that the February 2008 cellular analog service sunset will incent its customers to upgrade to location-capable handsets. However, Cellcom has not provided any information with respect to its plans to expand digital CDMA coverage, which would reduce the number of subscribers with decreased access to emergency services if required to transition to location-capable phones. Further, we are unpersuaded by Cellcom’s argument that it has “no business incentive” to expand digital coverage in rural and remote areas of its service area as a basis for warranting relief from

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<sup>47</sup> See Cellcom Request at 8.

<sup>48</sup> See *id.* at 9.

<sup>49</sup> See *id.*

<sup>50</sup> *Id.* We also note that the expressions of support by four PSAPs provide evidence of Cellcom’s “good faith in requesting relief.” See *supra* ¶ 6 (citing *Order to Stay*, 18 FCC Rcd at 20997 ¶ 28). The letters provided by Cellcom are indicative of a close working relationship between Cellcom and these PSAPs, and an understanding by these PSAPs of Cellcom’s status and efforts in achieving compliance with the ninety-five percent penetration rate.

the Commission's E911 Phase II requirements. As the Commission has stated in the past, Cellcom must comply with the Commission's E911 Phase II requirements in the shortest time practicable.

19. Cellcom also did not provide specific information regarding the steps it will take to transition analog subscribers to location-capable handsets or to work with its equipment vendors to explore the availability of higher-power location-capable handsets. Cellcom also did not provide specific information regarding the steps it will take to encourage its subscribers, and particularly its government and school district customers and those with digital but non-location-capable handsets, to upgrade to location-capable handsets. The fact that Cellcom reports that it timely met the location-capable sale and activation deadlines demonstrates some effort on Cellcom's part to comply with the ultimate ninety-five percent penetration requirement. In particular, ensuring that 100 percent of all new digital handsets activated are location-capable is an important step that should eventually lead to ninety-five percent deployment of location-capable handsets. Further, we appreciate the progress Cellcom notes in increasing its location-capable handset penetration rate. However, Cellcom mentions only the existence of "incentive programs" but offers no details on such programs or future steps for achieving increased location-capable handset penetration levels. Thus, Cellcom does not adequately explain the basis for requesting twenty-seven additional months to comply with the ninety-five percent penetration threshold. For these reasons, we afford Cellcom a limited extension of one year following release of this *Order*, or until December 8, 2006, to achieve ninety-five percent penetration among its subscribers of location-capable handsets.<sup>51</sup>

20. *Conditions of Grant.* As a condition of grant, we expect Cellcom to actively inform and educate its customers concerning the advantages of having location-capable handsets, and to keep the PSAPs located within its service areas abreast of its progress in achieving ninety-five percent penetration. Specifically, we will condition the relief granted herein on Cellcom, from the date of release of this *Order*, and as an ongoing obligation until Cellcom achieves a ninety-five percent handset penetration rate among its subscribers of location-capable handsets, (1) notifying its customers, such as by billing inserts, when it reasonably expects PSAPs will make valid requests for Phase II service, to the effect that by upgrading their handsets they will have the ability to automatically transmit their location information, and (2) actively working with the PSAPs to keep them informed of its progress in achieving higher location-capable handset penetration rates.

21. *Reporting Requirements.* Finally, in order to monitor compliance in accordance with the relief of the December 31, 2005 ninety-five percent handset penetration requirement granted herein, we will require Cellcom to file status reports every February 1, May 1, August 1, and November 1, until two years following release of this *Order*,<sup>52</sup> which shall include the following information: (1) the number and status of Phase II requests from PSAPs (including those requests it may consider invalid); (2) the estimated dates on which Phase II service will be available to PSAPs served by Cellcom's network; (3) the status of its coordination efforts with PSAPs for alternative ninety-five percent handset penetration dates; (4) its efforts to encourage customers to upgrade to location-capable handsets; (5) the extent of subscribers located in areas with analog service only; (6) the percentage of its customers with location-

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<sup>51</sup> We note that the Commission has not received any objections from the public safety community with respect to the instant Request.

<sup>52</sup> We note that we are requiring Cellcom to file status reports beyond the one year from release of this *Order* by which we otherwise require Cellcom to achieve ninety-five percent penetration among its subscribers of location-capable handsets. We believe it is important to continue monitoring Cellcom's progress for an additional twelve months beyond this compliance deadline.



capable phones; and (7) until it satisfies the ninety-five percent penetration rate, detailed information on its status in achieving compliance and whether it is on schedule to meet the December 8, 2006 revised deadline.

#### IV. CONCLUSION

22. For the foregoing reasons, we conclude that Cellcom is entitled, pursuant to the ENHANCE 911 Act, to a limited extension of the December 31, 2005 requirement that it achieve ninety-five percent penetration among its subscribers of location-capable handsets. Specifically, we extend the date that Cellcom must achieve ninety-five percent penetration until December 8, 2006, and impose conditions and reporting requirements to ensure that Cellcom achieves full compliance with the Commission's E911 requirements. We reiterate that any party seeking a waiver from our E911 rules must demonstrate a clear path to full compliance.

#### V. ORDERING CLAUSES

23. Accordingly, IT IS ORDERED, pursuant to the ENHANCE 911 Act, Pub. L. No. 108-494, 118 Stat. 3986 (2004), and Sections 1.3 and 1.925 of the Commission's rules, 47 C.F.R. §§ 1.3, 1.925, that the foregoing *Order* IS ADOPTED.

24. IT IS FURTHER ORDERED, that the Request for Limited Waiver and Extension of the Commission's Phase II E911 Rules filed by Northeast Communications of Wisconsin, Inc. dba Cellcom IS GRANTED IN PART to the extent described above, and subject to the conditions and reporting requirements specified herein. The deadline for compliance with Section 20.18(g)(1)(v) will be December 8, 2006.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary